

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**STATE OF CALIFORNIA, BY AND
THROUGH ATTORNEY GENERAL XAVIER
BECERRA; STATE OF NEW YORK; STATE
OF DELAWARE; COMMONWEALTH OF
VIRGINIA,**

Plaintiffs,

v.

**DON J. WRIGHT, IN HIS OFFICIAL
CAPACITY AS ACTING SECRETARY OF THE
U.S. DEPARTMENT OF HEALTH & HUMAN
SERVICES; U.S. DEPARTMENT OF
HEALTH AND HUMAN SERVICES; R.
ALEXANDER ACOSTA, IN HIS OFFICIAL
CAPACITY AS SECRETARY OF THE U.S.
DEPARTMENT OF LABOR; U.S.
DEPARTMENT OF LABOR; STEVEN
MNUCHIN, IN HIS OFFICIAL CAPACITY AS
SECRETARY OF THE U.S. DEPARTMENT OF
THE TREASURY; U.S. DEPARTMENT OF
THE TREASURY; DOES 1-100,**

Defendants.

4:17-cv-005783-KAW

**DECLARATION OF KARYL RATTAY
IN SUPPORT OF STATE OF
CALIFORNIA'S MOTION FOR
PRELIMINARY INJUNCTION**

DECLARATION OF KARYL T. RATTAY, M.D., M.S.

I, Karyl T. Rattay, M.D., M.S., Director of the Delaware Department of Health and Social Services, Division of Public Health, declare and say as follows:

1. I am the Director of the Delaware Division of Public Health (DPH) within the Department of Health and Social Services. I have served as Delaware's State Health Officer since May 2, 2009 and in similar positions for more than 15 years.

2. Under Title X of the Public Health Services Act, DPH offers a wide range of reproductive health services and supplies to both women and men comprised of physical examinations and reproductive health services including pap smears and clinical breast examinations; family planning counseling and education; birth control education, including screening and supplies; emergency contraception; pre-conceptional counseling; sterilization counseling, education and referral; testing for and treatment of sexually transmitted diseases; HIV education, counseling and testing; pregnancy testing;

3. DPH bases its fees for services and supplies on income, but no one is denied services if he or she is unable to pay. DPH's Title X program accepts Medicaid and other insurance and uses a sliding scale for cash payments. Regardless of the ability to pay, federal regulations require that all be served based on need rather than income. Women in need of contraception and other services who lose coverage as a result of the IFR's and seek assistance at DPH will increase the responsibilities of the already overwhelmed Title X program.

4. The Guttmacher Institute reports that, in 2011, 45% of all pregnancies in the United States were unintended, including three out of four pregnancies to women younger than 20. <https://www.guttmacher.org/fact-sheet/state-facts-about-unintended-pregnancy-delaware>. In 2010, the 57% rate of unintended pregnancies in Delaware was the highest in the nation at 62 per 1,000 women aged 15 to 44.

5. The financial impact of unintended pregnancy on Delaware resources is profound. According to the Guttmacher Institute,

- In 2010, 3,300 or 71.3% of unplanned births in Delaware were publicly funded, compared with 68% nationally.
- In Delaware in 2010, the federal and state governments spent \$94.2 million on unintended pregnancies; of this, \$58.2 million was paid by the federal government and \$36.0 million was paid by the state.
- The total public costs for unintended pregnancies in 2010 was \$526 per woman aged 15–44 in Delaware, compared with \$201 per woman nationally.

- In 2010, public expenditures for family planning client services in Delaware totaled \$7.2 million; this includes \$5.6 million through Medicaid and \$908,000 through Title X. Most states also use some of their own money (in addition to funds required to match federal grants) for family planning services. In 2010, Delaware contributed \$693,000.

6. If the Interim Final Rules are enforced in Delaware, the impact on the health of Delaware would be profound. The Public Health Accreditation Board concluded that, “unintended births was higher in younger mothers, those with 12 years of schooling, with low income, among non-Hispanic Blacks or African Americans, higher in Kent and Sussex counties, and among those with Medicaid as insurer.” It is universally accepted that poverty and maternal age are critical measures of maternal and child health. Reduction of insurance coverage via the IFR’s will contribute to an increase in Delaware’s nationally high unintended pregnancy rate as women forego needed contraception and other services. Increases in unintended pregnancies among at-risk populations without proper pre-natal care, due to lost insurance coverage, will increase the number of newborns in Delaware dealing with illness, physical challenges and cognitive impairment due to low birthweight and prematurity. The impact goes beyond contraception as these mothers and infants may face lifelong challenges with significant financial and societal costs.

7. The cost to Delaware Medicaid for the costs of birth alone for unintended pregnancies is almost \$30,000,000.00 annually. I predict that, if the Interim Final Rules are enforced in Delaware, more women who lose access to contraceptives through their employer-sponsored plans will seek access to those services and products through DPH’s programs, which will result in increased costs to the State, increasing the burden on the Delaware Medicaid program. I expect that the Medicaid enrollment will expand as preventable, unintended pregnancies and resulting healthcare needs drive women and families into poverty. Not only will the costs of births from unintended pregnancies increase, so will the lifetime medical costs of both mother and child.

8. As unintended pregnancies increase poverty levels for mothers and children, there will be

an impact on other types of social spending by Delaware. I expect that more families will qualify for TANF, SNAP, WIC and other social spending programs. The increase in enrollment in these programs will tax Delaware's already overburdened public assistance programs. In the lean economic times that Delaware is facing, programs such as Child Development Watch are already functioning well beyond capacity as increased pediatrician screenings are identifying higher numbers of substance exposed infants as well as babies and young children (0-3) with possible developmental delays. These services are vital to the health and development of Delaware's most vulnerable children, but further demands will lead to gaps and loss of services. Children will fall through the cracks due to lack of staff capacity and available state resources to serve these families.

9. I expect that educational costs for both mothers and children born of unintended pregnancies will rise. I predict that costs for early intervention services and IDEA-mandated services will steeply increase as more such children need such remedial services.

I declare under penalty of perjury that the foregoing is true and correct and of my own personal knowledge.



Karyl T. Rattay, M.D., M.S.

SWORN and SUBSCRIBED before me this 20th day of October, 2017